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October 18, 2018

VIA ECF

Honorable Steven M. Gold
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Joseph Washington et al. v. U.S. Dep’t of Housing and Urban Development
(HUD) et al., 16-CV-03948 (ENV) (SMG)

Dear Magistrate Judge Gold:

On behalf of Defendants Caliber Home Loans, Inc. (“Caliber”) and U.S. Bank Trust, National Association, not in its individual capacity but solely as trustee (the “Trustee,” and with Caliber, “Caliber Defendants”) for LSF9 Master Participation Trust, we write concerning the Caliber Defendants’ Memorandum of Law in Opposition to Plaintiffs’ Cross-Motion for Partial Summary Judgment and Reply in Further Support of Their Motion for Partial Summary Judgment Dismissing Plaintiffs’ RESPA Claim and submissions related thereto (collectively, the “Reply RESPA SJ Submission”).

On October 11, 2018, the Caliber Defendants filed the Reply RESPA SJ Submission under seal pursuant to this Court’s October 3, 2018 Order. Counsel for the Plaintiffs and the Caliber Defendants conferred and are in agreement regarding appropriate redactions for a publicly-filed version of the Reply RESPA SJ submission. Accordingly, the Caliber Defendants are publicly filing today the agreed-upon redacted version of the Reply RESPA SJ Submission and explain below, in general terms, the nature of the information redacted and the reasons it should not be made public.

The nature and rationale for the redactions in the Reply RESPA SJ Submission are consistent with those outlined in the Caliber Defendants’ May 8, 2018 letter (the “May 8 Letter”). *See* Dkt. 80. Specifically, the Caliber Defendants seek to maintain two types of information under seal: (1) information regarding the Caliber Defendants’ business strategy, financial data, and sensitive proprietary loan modification criteria; and (2) sensitive financial and personal data concerning the Plaintiffs and/or their co-borrowers. The Caliber Defendants operate in an extremely competitive industry and must be able to keep their loan modification



waterfalls and related policies and procedures (a key component of their competitive advantage) confidential if they are to remain competitive, and disclosure of such information creates a serious risk of harm to the Caliber Defendants. Moreover, the public has little interest in information related to the Caliber Defendants' particular strategic plans or proprietary information, or the sensitive financial or personal data of individual borrowers. *See United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995) ("Financial records of a [] business . . . and similar matters will weigh more heavily against access than conduct affecting a substantial portion of the public."). The Court previously allowed the redacted and partially sealed filing requested based on the justifications set forth in the May 8 Letter. Dkt. 80. These redactions are consistent with the Joint Confidentiality and Protective Order entered on July 24, 2017 (the "Protective Order"), *see* Dkt. 61, redactions to the Caliber Defendants' original motion papers, *see* Dkt. 81, redactions to Plaintiffs' summary judgment papers, Dkt. 95, and with the presumption of public access to judicial documents. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006).

Accordingly, the Parties respectfully request that the Court allow (1) the unredacted version of the Reply RESPA SJ Submission filed on October 11, 2018 to remain under seal and (2) Confidential and Highly Confidential Information to remain redacted from the public filing of the Reply RESPA SJ Submission.

Respectfully submitted,

/s/ Benjamin R. Nagin

Benjamin R. Nagin

cc: Counsel of Record to the Parties